

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 27, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, October 27, 2009.

Mayor Warmington opened the meeting with a prayer from Pastor Jeffery Hough from the Angel Community Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2009-87 HONORS AND AWARDS:

A. 2009 Employee Service Awards. CIVIL SERVICE

David Newsome, Civil Service Commissioner, introduced the City employees. The Mayor and Commissioners thanked them for their years of service.

2009-88 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the October 12th Commission Worksession, and the October 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Donation Program for 2009 Individual Income Tax Returns. INCOME TAX

SUMMARY OF REQUEST: Approval of multiple donation programs for the 2009 income tax returns. Every year our goal is to increase the number of refunds donated to our designated programs. Last year, 503 taxpayers donated their refunds to our donation programs for a grand total of \$2,540.

For 2009 the three donation programs are Lakeshore Trail Improvements, Muskegon Recreational Center, and the Downtown Main Street.

FINANCIAL IMPACT: The average amount collected each year is \$2,000. Each donated refund saves the City approximately \$1.00 in check fees.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. Request to Amend Encroachment Agreement #2007-23(k) – E. Western and Marquette. ENGINEERING

SUMMARY OF REQUEST: WSP on behalf of Federal-Mogul is requesting your permission to amend agreement #2007-23(k) to install two additional monitoring wells in the public R-O-W of E. Western and Marquette bringing the total to four wells at that location. The request was made through the letter dated October 9, 2009, and an encroachment agreement form.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions.

D. Rezoning Request for Properties Located at 400 & 410 W. Laketon Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 400 and 410 W. Laketon Avenue, from B-4, General Business District to RM-1, Medium Density Multiple Family Residential District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 15th meeting. The vote was unanimous with T. Harryman absent.

F. Amendment to the Zoning Ordinance – Adding Wind Turbine Facilities as Special Uses in Business and Industrial Zones. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1101, #14, of Article XI, Section 1201, #11 of Article XII, Section 1301, #13 of Article XIII, Section 1306, #6 of Article XIII, Section 1401, #7 of Article XIV, Section 1501, #5 of Article XV, to allow "Wind Turbine Facilities" as special land uses in B-2, B-3, B-4, and B-5 business zoning districts and I-1 and I-2 industrial zoning districts.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to include "Wind Turbine Facilities" as special land uses in business and industrial zones.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 15th meeting. The vote was unanimous with T. Harryman absent.

G. Revocation of a Neighborhood Enterprise Zone Certificate for 1709 Pine. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Sabrina Petty is in violation of Sec. 207.781 sec. 11 subsection (4) which states:

If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

Sabrina Petty has failed to pay 2009 taxes for the property located at 1709 Pine Street whose parcel numbers are 24-205-298-0020-00 and 24-946-097-0049-00. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owner a letter informing them on September 21, 2009, giving them until October 2, 2009, to pay the taxes. A second letter was sent out on October 15, 2009, giving them until October 18, 2009, to pay the taxes or this would go before the City Commission on October 27, 2009, for revocation of the certificate. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 97-049 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the NEZ certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

Motion by Commissioner Carter, second by Commissioner Wisneski to approve the Consent Agenda as read minus item E.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

2009-89 ITEM REMOVED FROM THE CONSENT AGENDA:

- E. Vacation of the Southerly 159.5 feet of the Alley Bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request for vacation of the southerly 159.5 feet of the alley in the City of Muskegon Revised Plat of 1903, Block 427, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends vacation of the alley with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their October 15th meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the vacation of the southerly 159.5 feet of the alley bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

2009-90 PUBLIC HEARINGS:

- A. Completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon CDBG Grants. FINANCE**

SUMMARY OF REQUEST: To hold a required public hearing for the purpose of receiving public comments on the completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon grants. Both grants were funded through Community Development Block Grant and were administered through Michigan Economic Development Corporation.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold the public hearing to provide for public comment.

The Public Hearing opened to hear and consider any comments from the public. No public comments were made.

Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing and approve the completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon Community Development Block Grants.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

2009-91 NEW BUSINESS:

A. Revocation of Eight Industrial Facility Tax Exemption Certificates for Sappi Fine Paper. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the eight current Industrial Facility Tax Exemption Certificates for Sappi Fine Paper at 2400 Lakeshore Drive be revoked. The industrial activity for which the certificate was granted is no longer in production at this location.

FINANCIAL IMPACT: The business will now be charged the full tax rate.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends revocation of the IFT's.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the revocation of eight Industrial Facility Tax Exemption Certificates for Sappi Fine Paper.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

B. Revocation of Industrial Facility Tax Exemption Certificate for RC Productions. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the Industrial Facility Tax Exemption Certificate for RC Productions at 1756 Lakeshore Drive be revoked. The industrial activity for which the certificate was granted is no longer in production at this location.

FINANCIAL IMPACT: The business will now be charged the full tax rate.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends revocation of the IFT.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the revocation of the Industrial Facility Tax Exemption Certificates for RC Productions at 1756 Lakeshore Drive.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

2009-92 ANY OTHER BUSINESS: Commissioner Spataro stated that the October 12th issue of Nation's Cities Weekly had an article reference the CED Committee Meeting which was held in the City of Muskegon.

Mayor Warmington requested information from staff for the December Worksession reference mutual aid for Muskegon Heights.

Attorney David Campbell spoke reference the liquor license for Walgreens at 840 W. Sherman.

Motion by Commissioner Shepherd, second by Commissioner Spataro to reconsider the liquor license request for Walgreens at 840 W. Sherman.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the liquor license request for Walgreen Company at 840 W. Sherman.

ROLL VOTE: Ayes: Gawron, Shepherd, and Spataro

Nays: Warmington, Wierengo, Wisneski, and Carter

MOTION FAILS

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:37 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk